

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:

Group Art Unit: 1794

Applicant: Stephen J. Russell et al.

Examiner: Torres Velazquez, Norca Liz

Application No.: 10/564,319

Atty. Docket: 11778-001

Filed: October 12, 2006

Confirmation No.: 7481

Title: NONWOVEN SPACER FABRICS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26

Per 37 C.F.R. § 1.26 "(a) The Director may refund any fee paid by mistake or in excess of that required." Further, under 35 U.S.C. § 42(d), the Patent Office may refund "any fee paid in excess of the amount of fee that is required." See also *Ex parte Grady*, 59 USPQ 276, 277 (Comm'r Pat. 1943) and MPEP 607.02.

In this paper, **Applicants respectfully request a refund in the amount of \$755.00 be credited to Deposit Account No. 503351** for the following reason.

On April 1, 2010, Applicants paid a **large entity** issue fee of \$1510 along with a \$300.00 publication fee in the above-referenced application in accordance with the amounts shown on the Notice of Allowance and Fee(s) Due fee PTOL-85. However, applicants had previously asserted **small entity** status in the above-referenced application by payment of the **small entity** basic filing fee as set forth in 37 C.F.R. § 1.27(c)(3). Moreover, the undersigned attorney hereby states that the Applicants of the above-referenced application are entitled to **small entity** status in accordance with 37 C.F.R. § 1.27(c)(1). Thus, the \$1510 large entity issue fee shown by the USPTO on the Notice of Allowance and Fee(s) Due form PTOL-85 was in error and the payment of April 1, 2010 represents an overpayment of \$755.00. Applicants thus

Serial No. 10/564,319
Atty. Doc. No. 11778-001

respectfully request a refund in the amount of \$755.00 be credited to Deposit Account No. 503351.

Respectfully submitted,

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